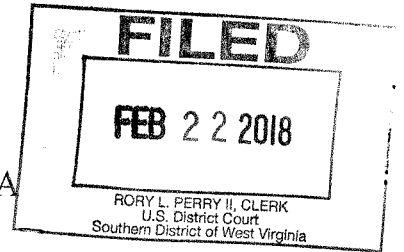


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA



Steven Lee Adkins Jr.

3556462

(Enter above the full name of the plaintiff
or plaintiffs in this action).

(Inmate Reg. # of each Plaintiff)

VERSUS

CIVIL ACTION NO. 2:18-cv-00342
(Number to be assigned by Court)

Warden David Ballard

Captain Toney

C.O. Dempsey

John Doe #1, John Doe #2

(Enter above the full name of the defendant
or defendants in this action)

COMPLAINT

I. Previous Lawsuits

- A. Have you begun other lawsuits in state or federal court dealing with the same facts involved in this action or otherwise relating to your imprisonment?

Yes _____

No X

B. If your answer to A is yes, describe each lawsuit in the space below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, using the same outline).

1. Parties to this previous lawsuit:

Plaintiffs: N/A

Defendants: N/A

2. Court (if federal court, name the district; if state court, name the county):

N/A

3. Docket Number: N/A

4. Name of judge to whom case was assigned:

N/A

5. Disposition (for example: Was the case dismissed? Was it appealed? Is it still pending?)

N/A

6. Approximate date of filing lawsuit: N/A

7. Approximate date of disposition: N/A

II. Place of Present Confinement: Mount Olive Correctional Complex

A. Is there a prisoner grievance procedure in this institution?

Yes X No _____

B. Did you present the facts relating to your complaint in the state prisoner grievance procedure?

Yes X No

C. If your answer is YES:

1. What steps did you take? Grieved to Unit team, then Warden
then Commissioner. (Ex#1)

2. What was the result? _____

D. If your answer is NO, explain why not: _____

III. Parties

(In item A below, place your name and inmate registration number in the first blank and place your present address in the second blank. Do the same for additional plaintiffs, if any.)

A. Name of Plaintiff: Steven L. Adkins Jr.

Address: 1 Mountanside Way, Mt. Olive, NV. 25185

B. Additional Plaintiff(s) and Address(es): _____

Na

Statement of the Claim

1. July 35, 2017, I was on the rec yard in Quilliams Unit-2 (Q2), I requested multiple times to speak to mental health. A unit team manager spoke with me while I was in a cage out on the rec yard, I briefly explained to them that I'd been trying for weeks to speak to Ms. Cooper from mental health yet she had been turned away numerous times. I stated I was at my end and desperately needed to talk to mental health. This interaction was being video taped by an officer, also present on the rec yard. Several inmates including Keith Lowe also witnessed the incident.
2. They left the rec-yard after I stated that I was going to stay on the rec yard until somebody called mental health.
3. Soon after, numerous correctional officers dressed in military riot gear stormed the rec yard came to my cage. They ask me to leave the cage and cuff up, I continued to request mental health, and that I would gladly leave the rec yard if they would just get mental health. After being ask if I was coming off, I had a brief discussion with Capt. Toney regarding his and my conversations about mental health being turned away and what he found out. He stated he had not had the time.
4. I then covered my eyes with my tobacogen best I could and they sprayed me at least 4, but I'm sure it was 5 times back to back with 3 to 5 second burst. way more than necessary to incapacitate me, blinding me and I could not breath.
5. They then opened the gate to the cage and rushed in on me tackling me to the ground.
6. Once I was completely restrained on the ground they were still assaulting me, one of them reached around and grabbed my throat with their hands and started choking me

for no reason, I was already subdued, restrained and not resisting.

7. I was then escorted to pod-6 shower and I took a shower.

8. I submitted a grievance regarding use of excessive on July 30, 2017 grievance No. 17-mccc-02-466, was denied by W.V. Doe commissioner.

9. I requested that all stationary cameras, video camera's and all other video recording of the incident be preserved, copied, etc.... (Ex#2)

10. Because of the spray I suffered a rash, trouble breathing, and eye irritation.

11. Because of the C.O. choking me my throat was bruised, and sore for 3-4 weeks could not swallow or eat, lost weight, and muscle/neck soreness.

12. I suffered mental and emotional distress

13. On or around August 5th, 2017, I submitted a sick call request.

14. I complained on a daily basis for weeks, I was given Medication and Ice packs.

INVOLVEMENT

David Ballard is involved because he is the Correctional officer's Supervisor, he is also condoned a pattern and practice of use of excessive force, and has been found liable in the past as Supervisory Liability in another use of force case.

Capt. Toney was part of the group of C.O.'s who applied excessive force and so was C.O. Dempsey, and John Doe #1 and #2.

my Claims are:

Count's;

1. excessive use of force
2. Supervisor liability
3. Emotional and mental distress

(In item C below, place the full name of the defendant in the first blank, his/her official position in the second blank, and his/her place of employment in the third blank. Use item D for the names, positions, and places of employment of any additional defendants.)

C. Defendant: David Ballard

^{was}
~~is~~ employed as: Warden

at Mocc.

D. Additional defendants: Capt. Toney, works at Mocc

C.O. Dempsey; John Doe #1; and John Doe #2 all
work at Mocc.

IV. Statement of Claim

State here as briefly as possible the facts of your case. Describe how each defendant is involved. Include also the names of other persons involved, dates, and places. Do not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, set forth each claim in a separate paragraph. (Use as much space as you need. Attach extra sheets if necessary.)

+ Please see Attached +

IV. Statement of Claim (continued):

V. Relief

State briefly exactly what you want the court to do for you. Make no legal arguments.
Cite no cases or statutes.

- Compensatory damages
 - Punitive damages
 - and any relief this court deem fair and just.
-
-
-
-
-
-
-
-

V. Relief (continued):

VII. Counsel

- A. If someone other than a lawyer is assisting you in preparing this case, state the person's name:

_____ Another inmate, explained how to do it, and I did it.

- B. Have you made any effort to contact a private lawyer to determine if he or she would represent you in this civil action?

Yes _____ No Y

If so, state the name(s) and address(es) of each lawyer contacted:

_____ NA

If not, state your reasons: none

- C. Have you previously had a lawyer representing you in a civil action in this court?

Yes _____ No X

If so, state the lawyer's name and address:

Signed this 13th day of February, 20 18.

Steve Adams
Signature of Plaintiff or Plaintiffs

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 2/13/2013
(Date)

Steve Adams
Signature of Movant/Plaintiff

N/A
Signature of Attorney
(if any)

RECEIVED

Policy Directive 335.00
01 February 2014
Attachment #2AUG 01 2017
ONE STATE ONLY

APPROVED FOR INMATE VIEWING

QUILLIAMS 2

Va. Department of Corrections Inmate Grievance Form

Grievance No.

17-moc 02-466

Steven Lee Adkins Jr.

Inmate Name

DOC#

3556462

July 30-17 639

Date of Grievance

727

State Nature of Grievance / Issue to be addressed (Note: 1 issue per grievance be concise file with Unit Manager NO WRITING ON BACK):

RECEIVED

Excessive use of force was used against me on
 the 25th of July and 28th of July, injuring my throat
 both times. I want a copy of this, I want all video / audio / and documents to be preserved pertaining to these events.

Relief Sought (state what you want):

I want to know why excessive use of force was used
 and for it to stop.

Steve Adkins

Inmate's Signature

(The inmate may attach 1 8.5 x 11 sheet if necessary at this level only)

Unit Manager's Response (attach additional sheet if needed)

Accepted ☒Rejected ☐

Reason for rejection:

Date:

Response on Merits if accepted:

while being escorted from your cell you broke from the officers
 doing a hands on escort. You then attempted to attack Capt. C. Plunkard & Williams.
 The force used was one step higher than your action and was needed to regain control.

Signature

Resolved:

(If so initial and give copy to unit manager)

Appealed to Warden/Administrator

(Initial) Date:

Aug 17-17

If no response at initial level is included the inmate certifies that he/she has tendered this grievance as indicated above and no response has been issued at that level within the time frames set forth in Policy Directive 335.00

Inmate's Signature

Date

Action by Warden/Administrator:

Accepted ☒Rejected ☐

Reason for rejection:

Date:

Response on Merits if accepted: ☐ Remand to Unit for further action☒ Affirm and/or deny grievance ☐ Grant the Grievance as specified

Comments:

Don Bull

Warden/Administrator's Signature

Date

AUG 23 2017 (Attach additional sheet if necessary)

Resolved:

(If so initial and give copy to unit manager)

Appealed to Commissioner

(initial)

RECEIVED

If no response at Warden/Administrator's level is included, the inmate certifies that he/she has tendered this grievance as indicated above and no response has been issued at that level within the time frames set forth in Policy Directive 335.00

Inmate's Signature

Action by Commissioner:

Accepted ☒Rejected ☐

Reason for rej:

Date:

Response on Merits if accepted: ☐ Affirm Warden/Administrator and deny grievance (Affix final stamp)☐ Other, memo attached.

Affirmed
 Grievance Denied
 Central Office
 Grievance Review

AUG 18 2017

WARDEN'S OFFICE
MOCCEx.
1

**MOUNT OLIVE CORRECTIONAL COMPLEX
UNIT TEAM REQUEST FORM
QUILLIAMS 2**

Date: JULY-30-17

I, Steven Lee Atkins Jr., DOC # 3556462, Cell # 604 need to speak with/receive a reply from the Segregation Commander, Case Manager, Counselor, Office Assistant (circle one) regarding:

I am respectfully requesting any and all videos including the rec yard stationary cameras, any and all audio and any and all documentation regarding the use of force used on me on the 25th of July 2017 and the 28th of July 2017.

Steven Atkins 3556462
Signature/DOC #

REPLY:

Date: _____

Staff Signature/Title

COPIES

All requests for legal copies will be forwarded to the Law Library. You will need to fill out a Legal Request Form with instructions along with a voucher. Copies are 15 cents a page. The Library picks up and delivers on Monday, Wednesday, and Friday. No copies will be made in the Unit. No exceptions!

30 July 2017
Co. Matthew Isaac
Cell [Signature]

EX.
2